



Ohio Department of Natural Resources

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Kimbra Davis
Director, Orphaned Wells Program Office
U.S. Department of the Interior
1849 C Street NW
Washington, DC 20240

Via orphanedwells@ios.doi.gov

Re: Ohio's Comments on the Draft Formula Grant Guidance Document

Dear Director Davis:

The Ohio Department of Natural Resources, Division of Oil and Gas Resources Management is submitting this letter along with additional more specific comments on the Department of the Interior's draft guidance document that is enclosed with this letter. Ohio wholly supports the IOGCC comments and have enclosed them with this letter. Ohio appreciates the opportunity to comment and work with the DOI as a partner on the development of this guidance document.

In addition to Ohio's enclosed comments, the following comments are intended to identify fundamental changes that Ohio believes should be addressed throughout the entire guidance document.

- The Infrastructure, Investment and Jobs Act, Section 40601 Orphaned Well Program Section (c) (4)(A)(iv) specifically required that the amount each state would receive for the entire Formula Grant be published within 75 days of enactment. Not publishing the entire Formula Grant amount creates uncertainty and does not comply with the law. The DOI should follow the law and announce the Formula Grant amounts for each state for the entire grant as soon as possible in order to maintain momentum and provide certainty to the state regulatory agencies and the contractors plugging the wells.
- Recalculating the Formula Grant amounts does not comply with the Infrastructure, Investment and Jobs Act, Section 40601 Orphaned Well Program Section (c) (4)(A)(iv) requirements. Recalculation is not necessary and will create uncertainty and unintended consequences. Both states and contractors need certainty in planning, budgeting, and contracting. A proposal to change the amounts awarded to each state from what the DOI had originally calculated based on the information each state submitted with its timely notice of intent would move the target. The DOI should adhere to the Act and establish the Formula Grants for each state for the entire grant as soon as possible based on the information submitted by each state in 2021 as the Act required.
- The Infrastructure, Investment and Jobs Act, Section 40601 Orphaned Well Program Section (h) specifically defines an open application window for Formula Grants until 2030. This language in the Act is specific and clear. Not adhering to the Act by defining phases for the Formula Grants with short application windows does not account for the differing circumstances that each state

faces. Phased application windows for a state's entire grant creates uncertainty, reduces flexibility, limits state's abilities to implement their programs, and does not comply with the requirements established in the Act. The DOI should allow an open application window for the entire state's Formula Grant until the September 2030 deadline. Each State will have different needs and requirements. Application windows for each phase may differ and need to be flexible to accommodate those differing needs and requirements for different states.

- The Infrastructure, Investment and Jobs Act, Section 40601 (c)(2)(A) identifies items that the states "may" accomplish with the funding provided. This is in contrast to the provisions of the Act that address the same items for Federal Programs where it states that the Federal Programs "shall" accomplish these same items with the funds. The intent of the Act was clear that certain items were recommended for states but were required for the federal plugging program. The current draft of the Formula Grant guidance document requires, rather than recommends as stated in the Act, the states to gather and report information. The DOI should modify the guidance document to recommend these items to comply with the Act requirements and not supersede the clear language of the Act.
- Similarly, the Infrastructure, Investment and Jobs Act Section (c)(5)(E)(i) establishes a deadline in which the Performance Grants are to be made available. Although these comments are made primarily for the Formula Grants, DOI should consider making the Performance Grants available immediately for the same reasons stated above. In Ohio's case, a desire was to access the Performance Grant money before the Formula Grant money, in order to build efficiencies and eliminate any hurdles that are encountered prior to using the larger Formula Grants. Further, making the Performance Grants available now will continue the momentum of the states and contractors that was established using the Initial Grants. It will also encourage more contractor participation as an additional amount of money would be available; therefore, the contractors will invest in capital and labor to create more jobs.

Ohio has identified these items as critical and fundamental to the success of our federal plugging program. Each of the items mentioned above are defined specifically in the Act with clear contrasts to other language in the Act, which provides clarity to the specific intentions of the Act.

I hope that the comments in this letter and the additional comments on the actual draft guidance document that is enclosed with this letter are helpful to you. If you have any question about these comments or would like to discuss them, please contact me at Eric.Vendel@dnr.ohio.gov.

Sincerely,



Eric Vendel, Chief
Division of Oil & Gas Resources Management